

HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
MINUTES  
November 27, 2012

PRESENT: Jay Diener, Chair  
Ellen Goethel, Co-Chair  
Sharon Raymond  
Barbara Renaud  
Peter Tilton Jr.  
Gordon Vinther  
Diane Shaw, alternate  
Rayann Dionne, Conservation Commission Coordinator  
Keith Lessard, Planning Board Representative

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by the Chairman, Jay Diener, at the Hampton Town Office Meeting Room.

CONSIDERATION OF MINUTES

The Commission reviewed the minutes from September and October.

MOTION by Mr. Vinther to approve the September 25, 2012 minutes.

SECOND by Ms. Renaud.

VOTE: 7-0-0

MOTION by Mrs. Goethel to approve the October 23, 2012 minutes.

SECOND BY Ms. Raymond.

VOTE: 7-0-0

NHDES APPLICATIONS

A. 213 Island Path

Applicant: Pamela Rush

Agent: Brad Jett

This is a Standard Dredge & Fill application for the installation of a hot tub with a 10' x 10' paver-base and underground power line. Mr. Diener briefly recapped the major comments from the site walk. The first comment was whether the applicant would prefer to install a cement slab instead of permeable pavers because the pavers would lose their permeability once the hot tub is installed. Mr. Jett responded that they preferred the pavers to cement because they are less permanent. The second item discussed was where the water from the hot tub would drain to. Mr. Jett stated that water would drain along the side of the hot tub and outside of the buffer. Mrs. Goethel commented that she would like to see it drain between the tub and street. Mr. Lessard stated that this was a good addition to the yard. No further concerns or issues were discussed.

NO PUBLIC COMMENTS

MOTION by Mr. Tilton to not oppose the granting of the NHDES permit for the installation of the hot tub with a 10'x10' paver-base and associated underground power.

SECOND by Ms. Raymond.

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AMENDMENT by Mrs. Goethel noting that applicant has agreed to drain the water between the tub and street and away from the 50' wetland buffer and salt marsh.

SECOND by Mr. Tilton.

VOTE: 7-0-0

### SPECIAL PERMITS

#### A. 370 High Street

Applicant: James Burke

This after-the-fact application is for of addition of fill within the Wetland Conservation District. Mr. Burke stated that the purpose of the work was to flatten some of the lawn area so that it was easier to mow. He noted that when the property was purchased much of the yard was rough and bumpy. Mr. Burke commented that the area of fill is approximately 40' by 10' with a depth that ranges from 2 to 6 inches. Mr. Burke also commented that the streambed, which cuts through his property, was clogged. He restored the flow by removing leaves, tree branches, and other debris. Mr. Burke feels that his work has improved the area. Mr. Burke also addressed a few items discussed at the site walk. The first item was the tarp and sand used as a base for the pool to which Mr. Burke stated that he would be willing to remove it from the buffer. The second item was the pipes that originate from the foundation and discharge into the wetlands. The pipes appear to be basement drains. Mr. Burke commented that the pipes are in disrepair and non-functioning. He volunteered to cut them back to the foundation and cap them.

Mr. Diener added that there was one additional issue regarding the paved driveway. A review of both the Town and State permits for this property indicate that only a gravel driveway was approved. It was also noted that no driveway permit was applied for or granted for the installation of pavement. The driveway beginning at the road to the point where it widens before the garage is within the 50ft buffer. Mr. Burke added that the driveway was paved when he purchased the property.

Ms. Shaw asked if permits were filed for fill. Mr. Burke answered "no". Based on the site walk, Mrs. Goethel shared her impression that fill was also added to the 50ft buffer even though the plan only indicates fill being added to the wetland. Mrs. Goethel felt very strongly that the fill within the wetland should be removed and area restored. She was also very concerned about the amount of fill added between the wetland edge and the house and felt that it should be noted on the plan. Mrs. Goethel did support the removal of the tarp and sand along with the cutting back and capping of the basement drain pipes.

Ms. Renaud agreed with Mrs. Goethel but added that from an educational perspective this wetland area is part of a larger drainage area and removing illicit discharges directly into the wetland is important. Mr. Burke reiterated his willingness to remove the basement drain pipes. Mrs. Goethel asked the chair, if the original DES permit stipulated that there would be no additional wetland impacts? Mr. Diener stated that was correct and Mrs. Goethel added that it is a very important stipulation. Mrs. Dionne added that the DES permit allowed the addition of some fill in order to install a culvert that directs the stream under the driveway. Mrs. Goethel reminded the Commission that the location of the driveway and permitted fill was only allowed so that the property owner could access the buildable upland on the property. The driveway

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location had to cross the wetland at its narrowest point.

Mr. Vinther asked when the photos in the application were taken. Mr. Burke commented that they were taken in May when he was notified of the violation. The land survey and wetland delineation were completed in June.

Mr. Lessard commented that he understood that Mr. Burke was trying to improve his property but unfortunately it was within the wetland boundaries.

Mr. Tilton asked if Mr. Burke experienced any water in his basement and Mr. Burke said "no". Mr. Tilton would like to see the fill removed from the wetland but with regards to the driveway he is willing to accept that it was done by the prior owner and that it should have been caught before now. The current owner should not be held responsible.

Ms. Raymond agreed with the fill removal in the wetland and with Mr. Tilton about the driveway. However, she felt that it should be noted that no further driveway expansion is permitted. The Commission agreed that it should be tagged, but the manner in doing so is challenging.

Mr. Lessard asked whether it was a condominium and Mr. Burke responded that it was not, it is only a duplex.

Mr. Diener added that Mrs. Dionne has been working with DPW as driveway permits are applied for in hopes of catching potential wetland issues early on. The success of this effort is reliant upon residents filing driveway permits.

Mr. Diener summarized the issues needing to be addressed 1) fill in the wetlands, 2) the unknown amount of fill between the wetlands and the house, 3) the drainage pipes from the basement, 4) the sand and tarp, and 5) the paved driveway. A brief discussion regarding how far the pipe should be removed ensued.

Mr. Vinther asked how much fill was added to the wetland and Mr. Burke estimated that there was approximately 5 yards. Fill was brought in using his truck bed. Mr. Vinther asked the Commission members whether the process of removing the fill would cause more harm than leaving it in place? Mr. Diener commented that in the long run the removal is for the best. Mrs. Goethel added that previous restoration efforts have required this type of removal.

## NO PUBLIC COMMENTS

MOTION by Mrs. Goethel to recommend that the Planning Board deny the Special Permit and require restoration based on the above following stipulations:

1. Fill should be removed as indicated on the Plan dated June 12, 2012.
2. Prior to fill removal, the limits of the fill shall be marked by the property owner and reviewed by the Conservation Coordinator.
3. Allow natural vegetation re-established in the disturbed wetland area.
4. Installation of wetland boundary discs on trees along the wetland edge.

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5. A planting plan approved by the Conservation Coordinator consisting of a minimum of 10 native shade tolerant shrubs shall be planted on the upland side of the wetland edge.
6. Non-functioning drainpipes on the western side of the house shall be cut and within 3 ft. of the foundation, capped, and the remaining pipe length to be buried.
7. The tarp and sand used for the pool shall be removed and area re-seeded.
8. Storage of the gas-powered mower shall be outside of the Wetland Conservation District.
9. There shall be no further paving or expansion of the driveway

SECOND by Ms. Shaw.

AMENDMENT by Mr. Diener to include that there should be re-grading to the wetland edge, use of wetland markers on the trees at 10-20ft intervals instead of 50ft because of the undulating wetland edge, and the storage of the mower and trailers should be moved outside of the 50ft buffer. Mrs. Dionne requested that a Conservation Commission member join her in the final inspection. Ms. Raymond asked for the installation of erosions controls. The Commission agreed on a restoration deadline of June 2013. Mr. Lessard requested that owner be allowed to smooth out the buffer area so that it will be easier to maintain and reduce the need for future improvements. The Commission agreed with Mr. Lessard's request.

SECOND by Mr. Tilton.

VOTE: 7-0-0

## OLD BUSINESS

### A. 2013 Warrant Articles - Review Drafts

Mr. Diener reminded the Commission that there are two warrant articles proposed for 2013. The first is the request for \$10,000 to help replenish the Land Acquisition Fund. This warrant article has been accepted by the Board of Selectmen and has undergone some minor revisions. The second warrant article has not been finalized. This warrant article proposes to reduce the maximum amount of sealed surface allowed in the residential and non-residential zones outside of the Aquifer Protection District. The Commissioners reviewed the spreadsheets presented by the Conservation Coordinator, which summarized the five smallest lots per zone and their sealed surface percentages. The purpose of this was to evaluate the "worst" case scenarios where a reduction in the maximum amount of sealed surface could cause a redevelopment hardship for the property owner. The Commission discussed whether the sealed surface reduction should be the same amount across all zones or whether it should vary where the more developed zones might be allowed a greater percentage than the lesser developed zones. It was recommended that a reduced value of 60% sealed surface could be applied to all zones because a majority of these zones based on the "worst" case scenario were close to or just below 60%. Ms. Raymond had great reservations about this warrant article because it did not target those areas most impaired or affected by increases in sealed surface. She was also not convinced that a reduction to 60% would provide a substantial impact. Mrs. Goethel commented that although 60% might not have a substantial impact on current conditions, it would provide future protection. Several members were in favor of reducing the sealed surface amount but did not feel that the current warrant article had enough supporting evidence to enable the Commission to gain support of fellow boards and residents. The Commission decided to table this article until the 2014 Town Meeting in order to provide more time to discuss and develop a more effective approach.

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### B. Hurd Farm Signage Budgeted for 2012

Mrs. Goethel gave an update on the sign. The sum of \$500.00 was put aside for the cost of the sign. The suggestion for the sign was "Hurd Farm Conservation Easement" and to please respect the agriculture.

### C. Vote to Recommend Jim Zavez as a Conservation Commission Alternate

The Conservation Commission briefly met with Mr. Zavez to get learn more about his interest in joining the Commission. It was the consensus of the Commission to send a letter to the Board of Selectmen that Mr. Zavez shared an interest in joining the Commission.

## NEW BUSINESS

### A. Vote to Accept the Batchelder Farm Easement for Lot 34-1.

Mrs. Goethel motioned to have the Board of Selectmen sign to accept the Batchelder Farm Easement for Lot 34-1. Mr. Vinther seconded the motion. Vote: 7-0-0.

### B. Sand Dune Restoraton Project

Ms. Dionne read a letter she received from Alyssa Eberhardt. Ms. Eberhardt would like to meet with the Conservation Coordinator to identify potential dune restoration areas in Hampton. Mrs. Goethel volunteered to attend that meeting.

### C. RCCD and Vegetation Control Invoices for Phragmites Control

Ms. Dionne stated that Tracy Degnan of RCCD indicated that this invoice does not need to be paid by the Commission. Ms. Degnan will submit the invoice directly to NRCS because the Commission has already spent their target of 25% of the total project cost. To date the total is \$7,662.50 of which \$5600.00 has already been paid by the Commission for phragmite cutting.

## CONSERVATION COORDINATOR UPDATE

Ms. Dionne briefed the Commission on a meeting with the Town Planner, Building Inspector, Town Attorney, and Mr. Diener to develop a procedure for processing violations. Mrs. Dionne commented that there has been a general understanding on how to deal with violations, but no set procedure. The goal of this meeting was to develop a flow chart, which identifies each notification step required before the violation can be turned over to the Legal Department. Overall, the meeting was very productive.

## TREASURER'S REPORT

None

The next meeting of the Conservation Commission Public Hearing will be held on Tuesday, December 18, 2012, meeting in the Town Office Meeting Room. The site walk will be

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announced and will meet at the Town Office Parking Lot at 9:00 a.m.

ADJOURNMENT

MOTION by Ms. Renaud to adjourn at 9:55 p.m.

SECOND by Mr. Vinther

VOTE: 7-0-0

Respectfully submitted,

Sue Launi & Rayann Dionne

Secretary      Conservation Coordinator